

REMARKS

Applicant appreciates the detailed examination evidenced by the Official Action mailed January 25, 2007 (hereinafter "The Official Action"). Applicant also appreciates the indication that claims 6-12, 17, 18 and 24-30 include patentable subject matter and would be allowable if rewritten as suggested by the examiner.

Official Action, page 3. In response, Applicant has amended claims 7, 8, 9, 17, 18, and 19, 24, 25, 26, and 27, to be in independent form, thereby placing claims 7-12, 17-30 in condition for allowance, which is respectfully requested in due course.

With regard to the remaining independent claims (*i.e.* independent Claims 1, 13, and 19), Applicant has further clarified that "the time-changed audio information occurs closer in time to the second audio information than the first audio information," which, as described below in further detail, is not disclosed or suggested by the cited references (either singularly or in combination). Accordingly, Applicant respectfully requests the withdrawal of all rejections and allowance of all claims for at least the reasons described herein.

The IDS of April 5, 2004 was Complete

Applicant notes the indication in the Official Action that the IDS submitted on April 5, 2004 did not include copies of the non-patent literature cited therein. *Official Action, page 2.* In response, Applicant provides herewith a copy of the originally filed IDS and 1449 along with a postcard stamped by the USPTO indicating the inclusion and receipt of 18 references. Accordingly, Applicant respectfully submits that this evidence shows that the non-patent references were, in-fact, provided along with the IDS as required by 31 CFR 1.28(a)(2).

As a further convenience to the Examiner, Applicant has included herewith duplicate copies of the previously submitted non-patent references for further consideration by the examiner. Applicant respectfully requests the Examiner's consideration of the non-patent references included herewith (as cited in the original IDS and 1449) and the indication thereof by the Examiner's initialing thereof the individual references on the attached 1449 form.

Amended Independent Claims 1, 13, and 19 are Patentable over Davis and Hejna.

Claims 1-5, 13-16, and 19-23 stand rejected under 35 USC § 103 over U.S. Patent No. 5,454,041 to Davis ("Davis") in view of U.S. Patent Application No. 2006/0271979 to Hejna, Jr. ("Hejna"). *Official Action, page 2.* In response, Applicant has amended independent Claims 1, 13, and 19, to further clarify the patentable matter cited therein. For example, independent Claim 1 has been amended to recite in-part:

changing first audio information from occurring in a first time interval to occurring in a second time interval to provide time-changed audio information; and

combining the time-changed audio information with second audio information that is responsive to the first audio information to provide broadcast audio information wherein the time-changed audio information occurs closer in time to the second audio information than the first audio information.

Independent Claims 13 and 19 include similar recitations. In particular, Applicant respectfully submits that Davis and Hejna (taken either singly or in combination) do no disclose or suggest, at least, "changing first audio information from occurring in a first time interval to occurring in a second time interval to provide time-changed audio information... wherein the time-changed audio information occurs closer in time to the second audio information than the first audio information."

Davis relates to reducing audio feedback due to audio inputs being redistributed to the source that generates the audio. Davis addresses this potential problem by removing the input signal from the summed signal that is distributed to the source. For example, Davis reads in-part:

FIG. 2 illustrates an example of how the system might be used. Assuming that the audio input from the studio microphone 30 is coupled to channel A of the I/O module and is selected to be active, the channel is coupled to a bus in the mixer console from which it is mixed with other selected input signals. The mixed signal may then be broadcast or recorded as desired. A monitor signal from the I/O module is supplied to the amplifier 26 via a D-SUB connector. If the control port is set for direct output, the input from the studio microphone 30 is amplified and broadcast from the speaker 24. Because this monitor signal is likely to cause feedback in a broadcasting application, the operator may instead set the control port

for transmission of a mix-minus monitor signal. This signal would comprise all the selected input audio signals except for the input audio signal from the studio microphone 30. Thus, if signal from the studio microphone 30 is being summed with the audio signals from the remote microphone 32 and a signal from the broadcast means 46, the user of the microphone 30 would be able to hear these other two audio signals without the introduction of feedback. (Davis, column 4, lines 23-43)

As indicated by the above-cited passage from Davis, the system therein reduces feedback by actually subtracting part of the input from the signal that is to be redistributed to the source. Accordingly, Davis does not disclose or suggest at least, "combining, time-changed audio information with second audio information that is responsive to the first audio information to provide broadcast audio information" as **Davis actually discusses removing signals from an audio stream, not combining signals.**

Furthermore, the broadcast means 46 of Davis (cited by the Official Action as disclosing a portion of the recitations of the independent Claims) does not appear to combine any audio signal, but rather actually simply broadcasts whatever is provided thereto. *See, for example, Davis, col. 4, lines 45-54, discussing the distribution of an audio signal to a remote location via the broadcast means 46.* Furthermore, even if the broadcast means 46 of Davis could somehow be considered to disclose the above recitations of the amended impendent claims, such broadcast means 46 does not disclose or suggest combining "time-changed audio information" as Davis does not disclose or suggest changing the time of any audio information, but rather deals with selectively removing some audio signal components based on the source to which the audio signal is to be fed-back.

Accordingly, Davis does not disclose or suggest, at least, these recitations of the amended independent claims. Furthermore, Hejna also does not disclose or suggest these recitations shown above to be missing from Davis.

Hejna also does not disclose, at least, "changing first audio information from occurring in a first time interval to occurring in a second time interval to provide time-changed audio information... wherein the time changed audio information occurs closer in time to the second audio information than the first audio

information." In particular, Hejna appears to modify the rate at which data is provided from buffer to the client based on the rate at which data is actually being consumed by the client. For example, Hejna reads in-part:

In accordance with the present invention, data input to capture Buffer 400 of US 300 is buffered for a predetermined amount of time, which predetermined amount of time typically varies, for example, from one (1) second to several seconds. Then, Time-Scale Modification (TSM) methods are used to slow the playback rate of the audio or audio-visual work to substantially match a data drain required by Playback System 500 with a streaming data rate of the arriving data representing the audio or audio-visual work. As is well known to those of ordinary skill in the art, presently known methods for Time-Scale Modification ("TSM") enable digitally recorded audio to be modified so that a perceived articulation rate of spoken passages, i.e., a speaking rate, can be modified dynamically during playback. During Time-Scale expansion, TSM System 800 requires less input data to generate a fixed interval of output data. Thus, in accordance with the present invention, if a delay occurs during transmission of the audio or audio-visual work from network 200 to US 300 (of course, it should be clear that such delays may result from any number of causes such as delays in accessing data from a storage device, delays in transmission of the data from a media server, delays in transmission of the data from a media server, delays in transmission through network 200, and so forth). The playback rate is automatically slowed to reduce the amount of data drained from Capture Buffer 400 per unit time. As a result, and in accordance with the present invention, more time is provided for data to arrive at US 300 before the data in Capture Buffer 400 is exhausted. Advantageously, this delays the onset of data depletion in capture Buffer 400, which would cause Playback System 500 to pause. (Hejna, paragraph 35)

As shown by the above-cited passage of Hejna, the discussion therein actually relates to varying the rate at which data is provided to different clients each of which may demand different rates of data transfer based on the rate at which that data is provided to a display. Accordingly, Hejna does not disclose or suggest anything regarding "changing first audio information... to provide time-changed audio information which is closer in time to second audio information than the first audio information." In other words, Hejna does not appear to disclose or suggest changing the time delay between segments of audio within a data stream. Accordingly, even if Davis and Hejna were combined, the combination would not disclose or suggest at least these recitations of the amended independent Claims 1, 13, and 19.

Furthermore, there is no clear and particular evidence of a motivation or suggestion to combine these references as required in § 103. In particular, Davis relates to reducing audio feedback by selectively subtracting audio signals from a monitor signal that is fed back to a source, whereas Hejna relates to varying the data transmission rate of video streams provided to different clients based on the individual demands of the clients. Accordingly, the subject matter of Davis and Hejna appear to be completely unrelated in that they deal with very different problems and, moreover, appear to be inoperable with one another. For example, Davis would appear to call for data to be selectively removed from the video streams of Hejna. Similarly, Hejna would appear to call for changing data transfer rates for the data discussed in Davis could actually increase feedback, not eliminate it as called for by Davis. Therefore, Applicant respectfully submits there is no clear and particular evidence of a motivation or suggestion to combine these references as required in § 103.

Accordingly, Applicant respectfully submits that amended independent Claims 1, 13, and 19 are patentable over Davis and Hejna for at least the reasons described above. Furthermore, the dependent claims are patentable for at least the reasons described above in reference to the amended independent claims.

CONCLUSION

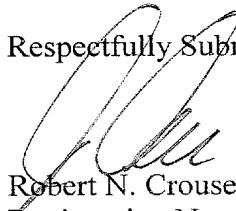
Applicant has provided herewith evidence that the original IDS provided on April 5, 2004, actually did include copies of the non-patent references as required under the CFR. Accordingly, Applicant respectfully requests that the Examiner consider the non-patent references cited therein and indicate the same by initialing the attached 1449.

Applicant has also amended independent Claims 1, 13, and 19 to further clarify the patentable subject matter recited therein and has shown by the preceding remarks how even if Davis and Hejna were combined, the combination would not disclose or suggest at least the recitations of the independent claims discussed above. Furthermore, Applicant has detailed why there is not clear and particular evidence of a motivation or suggestion to combine these references as required in § 103.

In Re: Todd D. Gatts
Serial No. 10/661,015
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Accordingly, Applicant respectfully requests the withdrawal of all rejection and the allowance of all claims in due course. If any informal matters arise the examiner is encouraged to contact the undersigned by telephone.

Respectfully Submitted,



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CERTIFICATION OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on February 13, 2007.

Signature: 
Sheena Donnelly